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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,862	03/24/2004	Alexander Wolf	P-27,658	6651
23307	7590	10/04/2005	EXAMINER	
SYNNESTVEDT & LECHNER, LLP 2600 ARAMARK TOWER 1101 MARKET STREET PHILADELPHIA, PA 191072950				AHMAD, NASSER
ART UNIT		PAPER NUMBER		
				1772

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/808,862	WOLF, ALEXANDER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nasser Ahmad	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 December 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 21-23,25-27,31,32,34,37,38 and 40 is/are rejected.
- 7) Claim(s) 24,28-30,33,35,36,39 and 41-43 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/18/05</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 21, 23, 25 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaughency (6235365).

Shaughency relates to a sealing strip comprising a flexible layer (18) having a first surface, an adhesive layer (120 positioned on the first surface, a cover sheet (14) releasably attached to the adhesive layer, and a tear thread (16) extending through said cover thread and having at least one free end protruding outwardly therefrom. The tear thread can be synthetic material (col. 3, lines 40-50). The flexible layer has a linear shape (figure-1).

The intended use phrases such as “for sealing”, etc. have not been given patentable weight because said phrases are not found to be of positive limitations.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 22, 26-27, 31, 34, 37-38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scaughency.

Scaughency, as discussed above, fails to teach that the shape of the flexible layer is a closed curve. It would have been obvious matter of design choice to modify Scaughency by providing the flexible layer to have the shape of a closed curve because it involves a mere change in the shape of the product. A change in shape is generally recognized as being within the level of one of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

Further, it would have been obvious to one having ordinary skill in the art to modify Scaughency by providing two ends of the thread to protrude outwardly from the cover sheet because the presence of the second protruding end of the thread would be mere duplication of parts. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

#### ***Allowable Subject Matter***

5. Claims 24, 28-30, 33, 35-36, 39 and 41-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art uncovered so far fails to teach that the adhesive layer comprises acrylic foam and that the flexible layer comprises an elastomer, and that the method of making the strip includes the step of pressing the tear thread through said cover sheet.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Nasser Ahmad* 9/27/05  
Nasser Ahmad  
Primary Examiner  
Art Unit 1772

N. Ahmad.  
September 26, 2005.